

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

October 6, 2008

C055627 THE PEOPLE v. DONALD RAY (Not For Publication)

The judgment is modified to stay, pursuant to section 654, the service of the sentence on count one, and to make count two the primary sentence. As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modification, and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

BLEASE, J.

We Concur: Scotland, P.J.
 Morrison, J.

**C056783 THE PEOPLE v. (Not For Publication)
STEVEN MICHAEL SPLAWN**

The judgment is affirmed.

RAYE, Acting P.J.

We Concur: Morrison, J.
 Hull, J.

October 7, 2008

**C051333 THE PEOPLE v. (Not For Publication)
LUCIAN GRAGOS BURCEA**

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Blease, Acting P.J.
 Butz, J.

**C053405 THE PEOPLE v. (Not For Publication)
RUDOLPH EDWARD MARSHALL**

The judgment is affirmed.

RAYE, J.

We Concur: Davis, Acting P.J.
 Butz, J.

**C053694 THE PEOPLE v. (Not For Publication)
RUSSELL STEPHEN GRANT et al.**

The matter is remanded to the trial court with directions to resentence defendant Rhodes in accordance with this opinion. In all other respects, the judgment is affirmed.

HULL, Acting P.J.

We Concur: Butz, J.
 Cantil-Sakauye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

October 7, 2008, Continued

- C055950 THE PEOPLE v. (Not For Publication)**
MIGUEL ANGEL-HORTA RODRIGUEZ
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Raye, J.
Butz, J.
- C056058 THE PEOPLE v. (Not For Publication)**
ROBERT SCOTT PAIG
The AIDS education fine in the amount of \$70 is stricken. In all other respects, the judgment is affirmed.
HULL, J.
We Concur: Morrison, Acting P.J.
Butz, J.
- C056774 THE PEOPLE v. (Not For Publication)**
JOSE A-LOPEZ RODRIGUEZ
The judgment is affirmed. The trial court is directed to amend the abstract of judgment reflecting that a sentence of one year and four months was imposed on count four, and to send a copy of the amended abstract to the Department of Corrections and Rehabilitation.
SCOTLAND, P.J.
We Concur: Sims, J.
Butz, J.
- C057148 THE PEOPLE v. EVANS LOWERY (Not For Publication)**
The judgment of conviction is affirmed. The true finding on the strike allegation is reversed, the sentence is vacated, and the matter is remanded to the trial court for a retrial of the strike allegation and for resentencing.
SCOTLAND, P.J.
We Concur: Blease, J.
Butz, J.
- C056606 In re D.F.; THE PEOPLE v. (Not For Publication)**
D.F.
The juvenile court's orders continuing his wardship and finding that he had no special education needs are affirmed.
BLEASE, Acting P.J.
We Concur: Hull, J.
Butz, J.

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Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

October 8, 2008, Continued

**C055545 THE PEOPLE v. (Not For Publication)
JOHN THOMAS SHONE**

The trial court's order that defendant have no contact with the victim or her three children for five years from the date of sentencing is stricken. The trial court shall amend the abstract of judgment at item 11 to delete reference to the criminal protective order. A certified copy of the amended abstract shall be forwarded to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed.

BUTZ, J.

We Concur: Blease, Acting P.J.

Hull, J.

**C056930 THE PEOPLE v. (Certified For Partial Publication)
JOSE ALBERTO MIRALRIO**

The trial court shall prepare an amended abstract of judgment striking the \$600 fine imposed under Penal Code section 243.4 and shall transmit a certified copy to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed.

SIMS, Acting P.J.

We Concur: Davis, J.

Raye, J.

**C057127 THE PEOPLE v. (Certified For Publication)
CHARLES ANTHONY GUIFFRE**

The trial court minutes of September 27 are corrected to reflect that the \$200 fine imposed on defendant was a probation revocation fine pursuant to section 1202.44 rather than a state restitution fine under section 1202.4 (b). Item 9.a. of the abstract of judgment is modified to reflect that defendant's \$200 probation revocation restitution fine under section 1202.44 is now due and payable.

The trial court is directed to forward a certified copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation. So modified, the judgment is affirmed.

BUTZ, J.

We Concur: Sims, Acting P.J.

Hull, J.

**C057737 THE PEOPLE v. (Not For Publication)
BRIAN DOUGLAS REED**

The judgment is affirmed.

BUTZ, J.

We Concur: Blease, Acting P.J.

Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

October 8, 2008, Continued

**C054639 DEPARTMENT OF CORRECTIONS (Not For Publication)
AND REHABILITATION v. STATE
PERSONNEL BOARD; BROWN et al.**

The judgment is reversed with directions to the trial court to deny the Department's petition for writ of mandate. The Department shall pay all costs on appeal.

MORRISON, J.
We Concur: Scotland, P.J.
Raye, J.

**C056031 COSTELLO et al. v. (Not For Publication)
THE PREFERRED LAND COMPANY
et al.**

The judgment is affirmed. Defendants are awarded their costs on appeal.
HULL, Acting P.J.

We Concur: Robie, J.
Cantil-Sakauye, J.

**C057305 In re TIFFANY C.; THE PEOPLE v. (Not For Publication)
TIFFANY C.**

The orders of the juvenile court are affirmed.
BUTZ, J.

We Concur: Morrison, Acting P.J.
Cantil-Sakauye, J.

October 9, 2008

**C054466 THE PEOPLE v. (Not For Publication)
ALEXANDR POYRAS**

The matter is remanded for resentencing as directed in part VII of the Discussion. The trial court is directed to prepare a corrected abstract of judgment reflecting the resentencing and to forward a certified copy thereof to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

SIMS, Acting P.J.
We Concur: Nicholson, J.
Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

October 9, 2008, continued

- C055705 THE PEOPLE v. (Not For Publication)**
GUSTAVO ZAVALA
The judgment is affirmed.
BUTZ, J.
We Concur: Blease, Acting P.J.
Nicholson, J.
- C055709 THE PEOPLE v. (Not For Publication)**
GABRIEL JOSE LOPEZ, JR.
Defendant's conviction is affirmed. The sentence is vacated and the matter is remanded for resentencing.
SIMS, J.
We Concur: Scotland, P.J.
Nicholson, J.
- C055878 THE PEOPLE v. (Certified For Publication)**
CURTIS BRYANT DeFRANCE
The trial court is ordered to strike the \$10,000 parole revocation restitution fine imposed under section 1202.45. In all other respects, the judgment is affirmed.
MORRISON, Acting P.J.
We Concur: Hull, J.
Butz, J.
- C057349 THE PEOPLE v. (Not For Publication)**
DEURIKA S. SEABROOKS
The judgment is affirmed.
DAVIS, J.
We Concur: Sims, Acting P.J.
Hull, J.
- C057859 THE PEOPLE v. (Not For Publication)**
WILLIAM KENNETH ECHOLS
The order imposing felony probation is vacated. The matter is remanded to the trial court with directions to reduce defendant's conviction to a misdemeanor and to resentence him accordingly.
CANTIL-SAKAUYE, J.
We Concur: Morrison, Acting P.J.
Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

October 9, 2008, continued

**C057708 THE PEOPLE v. (Not For Publication)
MATTHEW JOHN NEMANIC**

The judgment is modified to award defendant credit for 337 days of actual custody and 80 days of presentence conduct credit for a total of 417 days. As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modification, and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

CANTIL-SAKAUYE, J.

We Concur: Morrison, Acting P.J.
Robie, J.

**C058586 THE PEOPLE v. (Not For Publication)
ARTURO DIAZ PATINO**

The judgment is affirmed.

BUTZ, J.

We Concur: Blease, Acting P.J.
Nicholson, J.

C055095 MONTGOMERY v. HARWOOD, JR. (Not For Publication)

The trial court ruling is reversed. The matter is remanded with instructions to the trial court to order Earl Bruce Harwood, Jr., to pay Anne E. Montgomery her remaining share of the proceeds from the family residence pursuant to the terms of the judgment, \$19,924.84, plus legal interest as determined by the trial court. Wife is awarded her costs on appeal.

SIMS, Acting P.J.

We Concur: Nicholson, J.
Hull, J.

**C057101 THE PEOPLE v. (Not For Publication)
JOHN PETER LESKIN**

THE COURT:

The opinion of this court filed September 30, 2008, in the above entitled case is modified as follows:

1. On page 11, delete the first full paragraph beginning with the words "We note" and ending with "748.) ."

This modification does not affect a change in the judgment.

BY THE COURT:

HULL, J.

Raye, Acting P.J.

Morrison, J.

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Cantil-Sakaue, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

October 10, 2008, Continued

- C057077 THE PEOPLE v. (Not For Publication)**
AARON WILLIAM JOHNSON
The Penal Code section 1202.4 restitution fine of \$200 imposed on
September 25, 2007, is stricken. As modified, the judgment is affirmed.
NICHOLSON, J.
We Concur: Blease, Acting P.J.
 Robie, J.
- C056621 UNITED CAPITAL INVESTMENTS, (Not For Publication)**
INC. et al. v. AXTON et al.
The judgment is reversed. Plaintiffs shall recover their costs on appeal.
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MORRISON, Acting P.J.
We Concur: Robie, J.
 Cantil-Sakauye, J.
- C058559 In re B.T. et al.; SISKIYOU COUNTY (Not For Publication)**
HUMAN SERVICES DEPARTMENT v.
MARILYN T.
The orders of the juvenile court are affirmed.
RAYE, J.
We Concur: Nicholson, Acting P.J.
 Butz, J.